

Message Text

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PAGE 01 STATE 010791

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INFO OCT-01 ISO-00 /003 R

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DRAFTED BY L/M/CLBLAKESLEY:AD

APPROVED BY L/M:KEMALMBORG

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O 161921Z JAN 75

FM SECSTATE WASHDC

TO DEA OFFICE, 450 GOLDEN GATE AVENUE

BOX 36035, SAN FRANCISCO, CALIF. 94102

UNCLAS STATE 010791

ATTENTION JAMES MCLAUGHLIN

E.O. 11652: N/A

TAGS: CPRS, PFOR, SNAR, JA

SUBJECT: JUDICIAL ASSISTANCE - JUSTICE DEPARTMENT

DEPOSITION REQUEST - U.S. VS KEARNEY

REF: STATE 008127 AND PREVIOUS

FOLLOWING MESSAGE SENT SECSTATE WASHDC FROM AMEMBASSY TOKYO

16 JAN 75:

QUOTE UNCLAS TOKYO 0568

E.O. 11652: N/A

TAGS: CASC, CPRS, PFOR, SNAR, JA

SUBJ: JUDICIAL ASSISTANCE - JUSTICE DEPT DEPOSITION REQUEST -

U.S. VS KEARNEY

REF: STATE 008127 AND PREVIOUS

1. FOLLOWING TELEGRAM RECEIVED BY CONGEN TOKYO MORNING OF
16 JAN: QUOTE FM MARCUS STOPEL ASSISTANT FEDERAL PUBLIC
DEFENDER CECIL F. POOLE COUNSEL FOR DEFENDANT POWELL AND
DEFENDANT KING ON BEHALF OF ALL DEFENDANTS SAN FRANCISCO CA TO
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LEWIS CRUSSON AMERICAN CONSUL GENERAL AMERICAN CONSULATE TOKYO

JAPAN RE: DEPARTMENT OF JUSTICE REQUEST - U.S. V. KEARNEY.
COUNSEL FOR ALL DEFENDANTS DEMAND AN OPPORTUNITY TO INTERVIEW
DEPONENTS ADAMS AND GAMBLE PRIOR TO THE TAKING OF DEPOSITIONS.
THIS INTERVIEW IS ESSENTIAL IN ORDER FOR COUNSEL TO BE ADE-
QUATELY INFORMED AT THE TIME THE DEPOSITIONS ARE TAKEN AND IS
NECESSARY TO ALLOW COUNSEL TO REPRESENT DEFENDANTS IN A CON-
STITUTIONALLY ADEQUATE MANNER. COUNSEL REQUESTS THAT THE
INTERVIEW BE ARRANGED AT LEAST TWO FULL DAYS PRIOR TO THE ACTUAL
TAKING OF THE DEPOSITIONS. PLEASE ADVISE. END QUOTE

2. EMB HAS APPROACHED GOJ ON THIS SUBJECT AND IT IS WILLING
TO PERMIT INTERVIEW PROVIDED REGULAR DEPOSITION IS NOT DELAYED
AND ALSO PROVIDED PRISONERS ARE WILLING AND RULES OF PRISON
ARE FOLLOWED WHICH INCLUDES HAVING JAPANESE OFFICIAL PRESENT.
INTERVIEWS MUST BE CONDUCTED DURING BUSINESS HOURS OF 0900
TO 1600 ON SATURDAY, JAN 18 AND MONDAY JAN 20. NO INTERVIEW
PERMITTED ON SUNDAY.

3. COMMENT: THIS PERMISSION BY GOJ IS EXTRAORDINARY SINCE
THERE IS NO RIGHT UNDER JAPANESE LAW OR CONSTITUTION FOR
DEFENSE COUNSEL TO INTERVIEW PROSECUTION WITNESSES IN ADVANCE
OF TRIAL. DEFENSE COUNSEL MUST AGREE TO STRICTLY ABIDE BY
PRISON RULES SET FORTH PARA 2. IT SHOULD ALSO BE EMPHASIZED
THAT PRISONERS CANNOT BE COMPELLED TO ATTEND INTERVIEW OR
ANSWER QUESTIONS.

4. ACTION REQUESTED: IF DEPT PERCEIVES NO OBJECTION, EMB
REQUESTS THAT THIS REPLY BE COMMUNICATED TO PUBLIC DEFENDER IN
SAN FRANCISCO. HODGSON UNQUOTE KISSINGER

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: CONSULAR LEGAL ASSISTANCE, TRIALS
Control Number: n/a
Copy: SINGLE
Draft Date: 16 JAN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE010791
Document Source: CORE
Document Unique ID: 00
Drafter: AD
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750017-0564
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750145/aaaabnqw.tel
Line Count: 90
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 2
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 STATE 008127
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 01 MAY 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <01 MAY 2003 by SilvaL0>; APPROVED <25 Nov 2003 by MorefiRH>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
05 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: JUDICIAL ASSISTANCE - JUSTICE DEPARTMENT DEPOSITION REQUEST - U.S. VS KEARNEY
TAGS: CPRS, PFOR, SNAR, JA
To: DEA
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 05 JUL 2006